

Sayers-Roods v. Machado, August 19, 2022 - Plaintiff's Motion to Compel Subpoena Witness (B.T.)

EXHIBIT A

Documents Showing Communication Between Plaintiff's Tribal Council & Tribal Court, and San Benito County Counsel Barbara Thompson (Jul-Aug, 2022)

Re: Copy of Service to Defendant Marlene Machado - Subpoena as to S.B. County Counsel (Sayers-Roods v. Machado, CAND No. 22-cv-03092-EJD) [8-5-2022]



From Peterson, Cary (Costanoan.Org - Legal Affairs) <legal@costanoan.org>
To Barbara Thompson <BThompson@cosb.us>
Date 2022-08-09 10:57

Ms. Thompson,

Your response has been noted. I'm aware you were served the federal subpoena last week. That had nothing to do with your office's IT issues block my email address. Therefore, please let me and the court know if producing the requested materials will be an issue.

Regards,



Caryl Peterson
Chief Counsel
Costanoan Indian Research Inc.,
Tribal Council of Chualar Tribe of the Costanoan-Ohlone People,
Costanoan-Chualar Indian Tribal Community of Indian Canyon
1 Indian Canyon Road
Indian Canyon, CA 95024
(831) 531-0055 ext. 23
clpeterson@costanoan.org
www.costanoan.org

On 2022-08-09 10:15, Barbara Thompson wrote:

FYI only,

Our IT department determined that your emails had been blocked by our server but just unblocked the email address legal@costanoan.org, so I received several emails this morning. I issued read receipts for the ones that were received this morning.

Sincerely,
Barbara Thompson

From: Peterson, Cary (Costanoan.Org - Legal Affairs) <legal@costanoan.org>

Sent: Friday, August 5, 2022 1:54 PM

To: BLKKAMARO <BLKKAMARO@yahoo.com>; Marlenemachado <marlenemachado@proton.me>

Cc: Kanyon Sayers-Roods <ksr@costanoan.org>; isharma@costanoan.org; Aliu <aliu@rpflegal.com>; Chere Robinson <Chere_Robinson@cand.uscourts.gov>; Merri Lopezkeifer <merri.lopezkeifer@doj.ca.gov>; Felix Kitto <Felix.Kitto@bia.gov>; Jesse Abernathy <jesse.abernathy@bia.gov>; Lorraine Baldy <Lorraine.Baldy@bia.gov>; Lorenz, Christopher L <christopher.lorenz@bia.gov>; Barbara Thompson <BThompson@cosb.us>; Rdintaman <rdintaman@gmail.com>; Candice Hooper <CHooper@cosb.us>; George Barton <GBarton@cosb.us>; Victor Casada <ViCasada@cosb.us>; Info <Info@sbcsheriff.org>; Vanessa Delgado <VDelgado@cosb.us>; Supervisors <supervisors@cosb.us>

Subject: Copy of Service to Defendant Marlene Machado - Subpoena as to S.B. County Counsel (Sayers-Roods v. Machado, CAND No. 22-cv-03092-EJD) [8-5-2022]

Importance: High

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Ms. Machado,

Please see legal attachment concerning a subpoena issued and served in the U.S. District Court's *Sayers-Roods v. Machado* civil action.

Further, I'm resending you a copy of the Costanoan Tribal Court's Amended Order of Restraint as to Marlene Machado (yourself) that was affective as of last Friday.

Further, tribal and government officials with a particular interest in this legal communication have been copied on this official notice.

Regards,

--



Cary Peterson

Chief Counsel

Costanoan Indian Research Inc.,

Tribal Council of Chualar Tribe of the Costanoan-Ohlone People,

Costanoan-Chualar Indian Tribal Community of Indian Canyon

1 Indian Canyon Road

Indian Canyon, CA 95024

(831) 531-0055 ext. 23



clpeterson@costanoan.org

www.costanoan.org

[Resent (7/25/2022)] Fwd: [Costanoan Tribal Nation Response to S.B. County Counsel] Re: Machado



From Peterson, Cary (Costanoan.Org - Legal Affairs) <legal@costanoan.org>
To Barbara Thompson <BThompson@cosb.us>
Cc Kanyon Sayers-Roods <ksr@costanoan.org>, Cheinz <cheinz@costanoan.org>, Tbishop <tbishop@costanoan.org>, Chooper <chooper@cosb.us>, Gbarton <gbarton@cosb.us>, Vicasada <vicasada@cosb.us>, Info <info@sbcsheriff.org>, Merri Lopezkeifer <merri.lopezkeifer@doj.ca.gov>, <lkuck@costanoan.org>, <mayor@hollister.ca.gov> [6 more...](#)
Date 2022-07-25 10:52
Priority Highest

 USDC-CAND Doc. 40 Notice of Tribal Court Order.pdf (~293 KB)
 B Thompson Email to Tribal Council (7-25-2022).pdf (~630 KB)

Ms. Thompson,

This is an official response from our tribal nation sent to your State-County government, of which follows our phone conversations last Friday and Saturday. The text message you adhere to [*'last warning'*] tacitly articulated to you why your 'talking-out-of-school' argument is moot. [See court orders attached hereunto]

"Title 25, Part 170 of the Code of Federal Regulations ("Roads of the Bureau of Indian Affairs") makes clear that a BIA road is considered an "Indian reservation road," 25 C.F.R. Section 170.1. This is so even where a road serves both Indian and non-Indian land, see id. at Section 170.7, and even though BIA roads are generally open to public use, id. at Section 170.8. BIA roads are constructed on reservations "to provide an adequate system of road facilities serving Indian lands," id. at Section 170.3, and are held by the BIA in trust for the benefit of the tribe, see United States v. Mitchell, 463 U.S. 206, 224 (1983). An "Indian reservation road" serving Indian land and held in trust for a tribe is a "tribal road." McDonald v. Means, 99-36166oa (9th Cir. Aug. 14, 2002).

<You'd been sent this case law twice before today.>

Further, your questions, opinions, or allegations concerning tribal court order, or U.S. District Court's order are moot. the Honorable U.S. District Judge Edward Davlia issued an order that states:

"To the extent the title of the claim suggests interference with tribal activities, the claim should be resolved by the Constanoan Tribal Court in the first instance. See Iowa Mut. Ins. Co. v. LaPlante, 480 U.S. 9, 18 (1987). "Tribal authority over the activities of non-Indians on reservations lands in an important part of tribal sovereignty." Id. "Civil jurisdiction over such activities presumptively lies in the tribal courts unless affirmatively limited by a specific treaty provision or federal statute." Id. 1 Section 1360(a) provides that state courts "shall have jurisdiction over civil causes of action between Indians or to which Indians are parties which arise in . . . [a]ll Indian country

within [California].”

Your email below states:

1. a) that the land itself that Ms. Machado was evicted from was not "tribal land", but the tribe had control over the road;

Re: We discussed this Friday when I educated you on *McDonald v. Means*. The RV in dispute is alongside Indian Canyon Road. It's an Indian reservation road under *Means*. Your attempt to shoot for wiggle room respective to tax-land under Tribal Vice Chair and Director Anne Marie Sayers is moot. Whomever you're saying there is jurisdiction or merit to trespass on Indian country is entirely false. You, as a public official and officer of the court, told Defendant/Subject/Offender Marlene Machado this lie and aided and abetted her in causing criminal contempt on the tribal and federal courts' orders, whereby resulted in the Doc. 40 Order of Restraint that demanded she leaves our Indian reservation and never returns. The San Benito Sheriff made it very clear that they would arrest her under 28 USCS 1360(a) if she returned.

Federal Judge Davila upheld (Act of Congress) 28 USCS 1360(a) in his Doc. 38 Order. You told me Friday that you were unfamiliar with the *Sayers-Roods et al. v. Machado* court file, nor did you speak with the San Benito District Attorney's office before taking this matter into your own hands as a law enforcer. If you recall, I advised you to get familiar with the record (USDC, D.A.'s Office) before we continued any action or discussions.

You said you did not represent Ms. Machado as an attorney. I'm interested to know why you're acting on behalf of law enforcement or have the interest to negate two court orders. I spoke with the U.S. Marshal, San Benito County Commissioner's Office, San Benito Sheriff, and Hollister Mayor. Per these Saturday morning conversations, none of them authorized this legal action you're pursuing on behalf of Ms. Machado. Hence, this collusion woke me out of bed at 3:00 am last Saturday morning upon the reservation's interior manager Mr. Kuck calling me on emergent issues concerning Machado. Moreover, this behavior beyond the scope of your work title caused me a second abrupt series of calls on Saturday morning with the Hollister Mayor, U.S. Rep, county commissioner, U.S. Marshal, county sheriff's office, and our tribe's executive council members. This issue in controversy resulted in a lot of unnecessary discussions on an unauthorized legal action that was under the County D.A. and Tribal Community's discretion rather than yours.

- 2.
3. b) Ms. Machado did not receive any advance notice of the "tribal court" proceeding, only of the federal court proceeding;

Re: We've discussed this already. You are representing Ms. Machado as a defense attorney. You were not at her oral hearing last month. The tribal chairwoman and myself were in an appearance at this hearing. Neither Ms. Machado or yourself were present upon the process server delivering the summons and notice of hearing to Ms. Machado. Again, please declare your capacity here (do you work for the county or Machado?). I suggest you file an amicus curiae, whether as a defense attorney for Machado or for the San Benito County, if you wish to challenge U.S.D.J. Davila's federal judicial order, or the tribal court order that I issued in turn of Judge Davila's order. I presume everyone copied in

this email response will sort out whether your endeavor is a governmental or personal interest, whether it be via administrative action or a Fed subpoena.

4. c) Ms. Machado did not receive any advance notice of the eviction, other than the 15 minutes which was provided when you showed up at the property to evict her.

Re: The 15-minute removal was the sheriff's call that I cosigned as a courtesy upon duly serving Machado with the Order of Restraint. 'The property' belongs to Ann-Marie Sayers. The RV you mentioned in our phone call is parked alongside Indian Canyon Road. Your argument is moot. It is physically impossible to reach this point without touching Indian Canyon Road. Moreover, the DA confirmed that the RV Machado was accessing/residing was registered to Charles Francis. However, Mr. Francis is an unknown subject to our tribal community. Therefore, this property will be removed within 14 days (under CA law) from the date of our notice to Machado or deemed abandoned since the registered RV owner, Mr. Francis, is nowhere to be found.

This concludes this response. Please do not waste the government's time and resources on this legal action that appears to be a personal interest, whereby clearly negated court orders above your jurisdiction, disrupted public officials' private lives over this past weekend, and ultimately disrespected our Indian tribal community in the process. I will this informal issue in controversy your superior and the San Benito County DA hereinafter.

Regards,



Cary Peterson
Chief Counsel
Costanoan Indian Research Inc.,
Tribal Council of Chualar Tribe of the Costanoan-Ohlone People,
Costanoan-Chualar Indian Tribal Community of Indian Canyon
1 Indian Canyon Road
Hollister, CA 95024
(831) 531-0055 ext. 23
clpeterson@costanoan.org
www.costanoan.org

----- Original Message -----

Subject: Fwd: Re: Machado
Date: 2022-07-24 23:57
From: "Peterson, Cary Lee " <clpeterson@rpflegal.com>
To: Legal <legal@costanoan.org>
Reply-To: clpeterson@rpflegal.com

----- Original Message -----

Subject: Re: Machado
Date: 2022-07-24 01:11
From: Barbara Thompson <BThompson@cosb.us>
To: Barbara Thompson <BThompson@cosb.us>, "clpeterson@rpflegal.com" <clpeterson@rpflegal.com>

Mr. Peterson:

I am responding to your text messages on today's date. My office believes that the land on which the trailer was located is not tribal land, but rather, is under private ownership. If this parcel is "tribal land", please provide documentation showing its current status. If not tribal land, please provide specific statutory authority to support enforcement of a tribal court eviction outside tribal land jurisdiction.

Additionally, if you have any information which indicates that Ms. Machado does not have the legal right to use the road to access the property on which she lived, please let me know.

Yesterday, you indicated to me on the telephone:

- a) that the land itself that Ms. Machado was evicted from was not "tribal land", but the tribe had control over the road;
- b) Ms. Machado did not receive any advance notice of the "tribal court" proceeding, only of the federal court proceeding;
- c) Ms. Machado did not receive any advance notice of the eviction, other than the 15 minutes which was provided when you showed up at the property to evict her.

The County will review any information you provide. Thank you.

Sincerely,

Barbara Thompson
County Counsel

